

JUN 02 2010

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

JOHN F. CORCORAN, CLERK
BY: 
DEPUTY CLERK

EARL HAMMONDS,)	
)	Civil Action No. 7:09-CV-00365
Petitioner,)	
)	<u>FINAL ORDER</u>
v.)	
)	By: Hon. Glen E. Conrad
GENE JOHNSON,)	United States District Judge
)	
Respondent.)	

This case arises on petition for writ of habeas corpus, pursuant to 28 U.S.C. § 2254. On December 15, 2009, the court referred the petition to the Hon. Michael F. Urbanski, United States Magistrate Judge for the Western District of Virginia, for the preparation of a report setting forth appropriate findings of fact, conclusions of law, and a recommended disposition, pursuant to 28 U.S.C. § 636(b)(1)(B). On April 29, 2010, Magistrate Judge Urbanski filed a Report and Recommendation, in which he recommended granting the petition. Despite having been advised of the right to file objections, the period in which to object to the Report has passed and the court has received no objections. Accordingly, it is now

ORDERED

that the Report and Recommendation shall be and hereby is **ADOPTED**. It is further ordered that the petition for writ of habeas corpus shall be and hereby **GRANTED** to the extent that the court vacates the petitioner's sentence on the "Robbery I" convictions and orders the Circuit Court for the City of Chesapeake to resentence the petitioner. The petitioner shall remain in the custody of the Virginia Department of Corrections until his resentencing, which shall occur within 90 days of the entry of this order.

The Clerk is directed to send certified copies of this order to the petitioner and counsel of record for the respondent, and to return the state court records to the Circuit Court for the City of Chesapeake for the purposes of resentencing the petitioner. The Clerk is further directed to strike this case from the court's active docket.

ENTER: This 2^d day of June, 2010.



United States District Judge